



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, D.C.

JUN 30 1998

Office of the Assistant Secretary  
AFBCMR 97-03636

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code and AFI 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that:

a. On 30 January 1997, by mutual agreement of the parties, the request for a deemed election under the Survivor Benefit Plan (SBP), dated 27 August 1990, was withdrawn.

b. On 31 January 1997, he elected spouse coverage under the SBP, based on a reduced annuity, and his spouse, [REDACTED] concurred in his decision.

A handwritten signature in cursive script that reads "Donna Pittenger".

DONNA PITTENGER  
Chief Examiner  
Air Force Board for Correction  
of Military Records



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, D.C.

JUN 30 1998

Office of the Assistant Secretary  
AFBCMR 97-03636

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director or his designee.

*Donald A. [Signature]*  
Panel Chair

Attachment  
Ltr, AFPC/DPPT, dtd 31 Mar 98



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS

31 MAR 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTTR  
550 C Street West Ste 1 ■  
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Requested Correction: The applicant is requesting corrective action to show he was not required to elect former spouse coverage under the Survivor Benefit Plan (SBP) when he retired and his spouse only election is valid.

Basis for Request: The applicant claims his former spouse relinquished her entitlement to the SBP.

Background: If a member, required by a court order or spousal agreement to provide SBP coverage *for* a former spouse at retirement, fails or refuses to make an election, the former spouse may request an election be deemed to have been made. A valid request for a deemed election precludes the member from electing spouse coverage.

Facts: The **parties** divorced 28 Aug 89 and the divorce decree required the member to elect former spouse **SBP** coverage at retirement. The finance center received a valid request for a deemed election on behalf of the former spouse on 27 Aug 90. In Oct 96, the parties agreed not to enforce **the** provisions of the divorce decree requiring division of retirement pay. Prior to the member's 1 Feb 97 retirement **he** elected reduced spouse only coverage which was initially established by the Defense Finance and Accounting Service - Cleveland Center (DFAS-CL). In Aug 97, however, his record was audited and former spouse coverage based on full retired pay and a premium debt were retroactively established based upon the **deemed election**. Subsequently, the former spouse submitted a notarized statement dated 25 Aug 97 relinquishing all claim to the SBP. In Dec 97 DFAS-CL erroneously deleted former spouse coverage and retroactively reestablished reduced spouse coverage.

Discussion: Although the divorce decree required former spouse coverage to be established, the former spouse's notarized statement clearly attests she relinquished all claim to the SBP, but failed to withdraw her request **for** a deemed election prior to the member's retirement.

9703636  
-----

**Recommendation:** Although there is no evidence of Air Force error, to preclude a possible injustice, we recommend the member's record be corrected to reflect that by mutual agreement of the parties prior to the member's retirement, they agreed they did not want former spouse coverage established, but the former spouse failed to withdraw her request for a deemed election. Contrary to their wishes, the deemed election went into effect. The record should further be corrected to reflect the member elected spouse only coverage based upon a reduced level of retired pay effective 31 Jan 97.



**PAT PEEK, DAFC  
Chief, Retiree Services Branch  
Directorate of Pers Program Mgmt**